



THE LEGAL PROTECTION FOR APPRAISERS: PREVENTION OF LEGAL CASES AFFECTING APPRAISERS

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ABSTRACT

The aims of this study is to determine the legal protection for appraisers in carrying out professional risks in accordance with regulations. The research method used normative juridical research results stated that the greatest risk faced by appraisers in Indonesia was in the field of land acquisition for public interest which was systemic and involves appraisers as the party most responsible for state losses caused by the issuance of the compensation value opinion, it was appropriate for the appraiser profession to obtain legal protection in the form of the issuance of the Appraisal Law to protect their work as a profession. Novelty in this study, the researcher proposes the importance of ratifying the Appraisal Law to minimize the risk of appraisers facing the law, both criminally and civilly. As a legal umbrella, the Appraisal Profession also regulates legal governance within the Appraisal Profession like other professions in Indonesia, including if there is a dispute, both criminally and civilly. The formation of the Appraisal Supervisory Board is a proposal so that violations of the Appraisal Standards can be implemented through an ethics hearing first by this body before reaching the inquiry and investigation stage, both civil and criminal.

A. INTRODUCTION

Appraisers in English are called in two terms Valuer and Appraiser. The word appraiser comes from Latin, namely *appretiare*, which means to assess. In the general English-Indonesian dictionary, Appraisal is defined as Assessment or estimation, likewise Valuation is defined as Assessment or estimation. Performance appraisals help reinforce good performance, alert managers to the need for training and development in certain areas or the need to offer assistance to a poorly performing staff, and establish reward and promotion systems aimed at improving performance.¹ So Appraisal and

1 Alase, G., & Akinbo, T., Employee Motivation and Job Performance: Empirical Evidence from Nigeria. *Applied Journal of Economics, Management and Social Sciences* 2, No. 2 (2021):16-23

Valuation, at first glance have more or less the same meaning. However, in some countries, such as the UK and Commonwealth countries, the term appraisal is more directed at the implementation of an assessment whose skills are below the skills to carry out a valuation. This is because to carry out a valuation, formal special expertise is required that must be certified. In the United States, the terms appraisal and valuation have the same meaning, however, the terms Appraisal and Appraiser are more widely used in the United States, while the terms Valuation and Valuers are commonly used in the UK and Commonwealth countries.

The concept of appraisal institutions in assessing the valuation of intangible assets of intellectual property of Small and Medium Enterprises as objects of credit guarantees in order to improve the creative economy of the community.² The 2016-2017 edition of the Uniform Standard of Professional Appraisal Practice (USPAP) published by The Appraisal Foundation defines an Appraiser as follows: One who is expected to perform valuation services competently and in a manner that is independent, impartial, and objective.³ Meanwhile, in the Financial Institution Reform, Recovery, and Enforcement Act of 1989 (FIRREA) or a type of Financial Sector Law in the United States, there is a chapter that contains, among other things, a definition that only Appraisers can perform appraisal services.⁴ As regulated as follows a written statement used in connection with federally related transactions that is independently and impartially prepared by a licensed or certified appraiser setting forth an opinion of the defined value of an adequately described property as of a specific date, supported by presentation and analysis of relevant market information.

In this definition, it can be understood how important the attitude of an Appraiser is in conducting an Appraisal, therefore in the definition of Appraisal, the words independently and impartially are emphasized. In the Law (FIRREA) an Appraiser is also defined as follows: state certified real estate means any individual who has satisfied the requirements or state certification in a state or territory whose criteria for certification as a real estate appraiser currently meet the minimum criteria for certification issued by the Appraiser Qualification Board of the Appraisal Foundation. It is understood that an Appraiser must be someone who has a professional certification issued by an authorized professional body.⁵

From the several definitions above, what can be underlined about the Appraiser is that the Appraiser provides an opinion, the Appraiser also issues

2 Anis Mashdurohatun, Gunarto, Oktavianto Setyo Nugroho., Concept of Appraisal Institutions in Assessing The Valuation Of Intangible Assets On Small Medium Enterprises Intellectual Property As Object Of Credit Guarantee To Improve Community's Creative Economy, *JPH: Jurnal Pembaharuan Hukum* 8, No. 3 (December 2021): 485-502

3 Robert B. Morrison., From the Chair of the Business Valuation Committee: Draft Reports, Oral Reports, Record Keeping, and USPAP. *Business Valuation Review* 34, No. 1 (2015): 39-41.

4 Jon Shepherd., The Liability of Officers and Directors under the Financial Institutions Reform, Recovery and Enforcement Act of 1989, *Michigan Law Review* 90, No. 5 (1992): 1119-1144

5 Michael R. Devitt and Lawrence A. Sannicandro., *Qualified Appraisals and Qualified Appraisers: Expert Tax Valuation Witness Reports, Testimony, Procedure, Law, and Perspective*, (New Jersey: John Wiley & Sons Inc., 2018): 5

an estimated value, the Appraiser's value opinion is issued specifically on a specified date, His work is based on the results of analysis of relevant market information.⁶ So the Appraiser is basically a profession that issues estimates or opinions, supported by rational reasons or analysis. The feasibility of an opinion from the Appraiser is limited by the availability of sufficient data, as well as the Appraiser's ability and objectivity. In order to obtain a realistic property value estimate, it is difficult for an Appraiser to avoid his subjectivity.⁷

Therefore, in order to produce a realistic value estimate and minimize his subjectivity, an Appraiser must note that his main task is to consider all available facts that are impersonal. According to several authorized institutions, appraisal is defined as follows: The Dictionary of Real Estate Appraisal defines appraisal as The act or process of estimating value, the American Institute of Real Estate Appraisers states that appraisal is.⁸ The process of estimating market value, insurable value, investment value or other properly defined value of an identified interest or interests in a parcel of real estate as of a given date, Indonesian Assessment Standards, Appraisal is the work process of an Appraiser in providing a written opinion on the economic value at a certain time.

The Appraiser profession in Indonesia is only protected by the Regulation of the Minister of Finance of the Republic of Indonesia Number: 101/PMK.01/2014 of 2014 concerning Public Appraisers. In fact, in practice in the field in issuing Value Opinions, an appraiser is very vulnerable and has many risks related to parties who have previously been protected by the laws that govern them.⁹ Therefore, the researcher intends to conduct research on the Appraiser Profession in Indonesia in relation to the legal risks that must be faced by appraisers in issuing Value Opinions and proposals for the formation of an Appraisal Law that can protect the profession as well as the legal risks faced by appraisers if the Appraisal Law is passed. The research also examines whether the value opinion issued by an appraiser in determining the value of an appraisal object will have legal impacts, especially for the interests of the state and the general public or parties interested in the emergence of the value opinion. So that the value opinion can be categorized as a legal product that can give rise to criminal or civil events from users of the value opinion issued by an appraiser and efforts to overcome the legal risks against appraisers.¹⁰

6 sMary Macken-Horarik and Anne R. Isaac., *"Appraising Appraisal". Evaluation in Context, John*, (Amsterdam: Benjamins Publishing Company, 2014): 67-92,

7 J. Wayne Moore., A history of appraisal theory and practice: Looking back from IAAO's 75th year, *Journal of Property Tax Assessment & Administration* 6, No. 3, 2009, page. 23-50

8 William L. Ventolo and Martha R. Williams., *Fundamentals of Real Estate Appraisal 8th Edition*, (Chicago: Deaborn Real Estate Education, 2001): 14

9 Reni Budi Setianingrum., Mekanisme Penentuan Nilai Appraisal Dan Pengikatan Hak Cipta Sebagai Objek Jaminan Fidusia, *Jurnal Media Hukum* 23, No. 2 (2016): 229-238

10 Miranadia Djati, Kashadi dan Siti Malikhatun Badriyah., Tanggung Jawab Jasa Penilai Publik Dalam Menentukan Nilai Agunan Terhadap Tanah Dan Bangunan Yang Dibebani Hak Tanggungan, *Diponegoro Law Journal* 5, No. 2 (2016): 1-13

Based on previous research from Simora et al., it was stated that the preparation of legal regulations for appraisers is a form of special legal regulations and is a model of legal regulations, the contents of which are comprehensive, starting from the existence of expert services, duties and authorities, objectives, the role of expert services and responses to expert service accountability reports and guarantees regulated by law that provide protection and legal certainty for the appraiser.¹¹ Another study by Prasetyo, states that regulations related to the appraiser profession are spread across several laws, so clearer regulations are needed to create legal certainty and order. Thus, legal protection in the form of regulations in the law is very important to guarantee the important role and independence of the appraiser profession in supporting national economic development.¹²

The purpose of this study is to determine the legal protection for appraisers in carrying out professional risks in accordance with statutory regulations, so that the profession of an appraiser has legality in carrying out its duties.

B. RESEARCH METHODS

The research method uses normative legal and empirical legal methods. The normative legal method analyzes the legal risks that can befall an appraiser in carrying out his profession based on the laws related to the profession in the fields of banking, capital markets, corruption, insurance, money laundering, taxation, guarantees, local government and others.¹³ The empirical legal method is carried out through various road shows in the form of focus group discussions on legal protection for appraisers in carrying out their professional work and collecting primary data in the field related to criminal cases that have befallen appraisers in carrying out their duties in Indonesia. This type of research uses a qualitative approach that describes the phenomenon that explains the need for a legal umbrella for appraisers in Indonesia.

C. RESULTS AND DISCUSSION

1. The Basic Considerations of Judges in Handing Down Decisions in Non-Executory Civil Cases

Laws are formed, then implemented and maintained by a power, namely the state, and this is very strong in countries whose positive law

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- 11 Javerson Simamora, Nanda Dwi Rizkia, and Hardi Fardiansyah., The Urgency of Ratifying the Appraiser Law in the Context of Providing Legal Protection for Public Appraisers in Indonesia, *Indonesian Journal of Contemporary Multidisciplinary Research (MODERN)* 2, No. 4 (2023): 703-718
 - 12 Arif Bagus Prasetyo and Suwarno Abadi., Urgensi Undang-Undang Penilai Dalam Memberikan Perlindungan dan Kepastian Hukum Bagi Penilai, *Law and Humanity* 1, No. 3 (2023): 257-278
 - 13 Muhammad Hendri Yanova., Parman Komarudin dan Hendra Hadi, Metode Penelitian Hukum: Analisis Problematika Hukum Dengan Metode Penelitian Normatif Dan Empiris, *Badamai Law Journal* 8, No. 2 (2023): 394-408

is based on a codification system, including Indonesia.¹⁴ The existence of written regulations in a legal state that adheres to a codification system is in line with Hans Kelsen's view that law as law is action, as well as one of the many political tools with which the rulers of society can realize their policies. Legal protection is the protection of honor and dignity, as well as the recognition of human rights possessed by legal subjects based on legal provisions from arbitrariness or as a collection of regulations or rules that will be able to protect one thing from another. In relation to consumers, this means that the law provides protection for consumer rights from something that results in non-fulfillment of these rights.¹⁵ Agrarian problems are directly related to social and political problems. Government involvement in controlling community land is seen as a form of national development for the prosperity of the community itself.¹⁶

The land that is currently available has been attached to many Land rights, while the supply of state land is very limited. The implementation of land acquisition activities often gets pros and cons. Pros by agreeing and following government directions or cons by not agreeing to the implementation of these activities or in other words not complying with government regulations even though the policy is for the community at large. The implementation of this development requires a resolution to overcome conflicts. The land price assessment institution is currently entrusted to an independent assessment institution, namely an appraisal institution that is licensed by the Minister of Finance and the National Land Agency.¹⁷

The principles used in the Assessment are as follows (KEPI & SPI Edition VII of 2018): Anticipation Principle, which means that Value is the expectation of future benefits from the use of the property. Change Principle, where the value of the property is greatly influenced by changes in internal and external factors, such as population, economic conditions, government control, roads, and state politics. Supply and Demand Principle, which means that the value of the property is influenced by its availability in the community. The value of the property is influenced by the demand for the property in the community. Competition Principle, the profits obtained in a property market, create the attraction of "property players" to enter the market so that competition arises. Substitution Principle, Property buyers will not pay more for a property compared to the cost of purchasing another similar property. Contribution Principle, the value of a particular element is

14 M. Elpha Darnia (et. al), Strategi Penguatan Hukum Perlindungan Konsumen Dalam Era Digital. *Perkara: Jurnal Ilmu Hukum Dan Politik* 1, No. 4 (2023): 44-58.

15 Trivena Gabriela Miracle Tumbel (et. al)., Perlindungan Konsumen Jual Beli Online Dalam Era Digital 4.0, *Lex Et Societatis* 8, No. 3 (2020): 93-105

16 Tri Eka Saputra, Rustan Rustan., Supervision of Subdistrict Heads as Temporary Deed Making Officials in the Indonesian Positive Law Perspective, *Golden Ratio of Law and Social Policy Review* 3, Issue.1 (2023): 36-48

17 Windarto (etc)., Comparison Analysis Between Appraisal Prices and Land Value Zone Price for Compesation of Manado-Bitung Toll Road, *AGRIRUD* 3 No.4 (January 2022): 606- 615

measured based on its contribution to the overall value of the property. Suitability Principle, Property located in a suitable environment both socially and economically, will have maximum value. Balance Principle, the value of a property will reach its maximum if the production factors related to the property are in balance. These production factors include: labor, capital, raw materials, and others. Principle of External Influence (Externality), Property value is influenced by external influences, this proves the basic characteristics of the property which is open. Principle of Highest and Best Use (HBU), The maximum possible use is the use that will provide the most benefit.

Value in economic principles is based on economic facts in defining its opinion. Therefore, an Appraiser must understand economic concepts related to value and property such as the Land Lease/Asset Lease Concept, Future Benefit Concept, Utility Concept, Substitution Principle, understanding the definition of Value, Cost and Price, and the Appraisal process itself.¹⁸

Appraisers in carrying out their profession in Indonesia with the legal umbrella of PMK Number: 101/PMK.01/2014 of 2014 concerning Public Appraisers in carrying out their professional duties will directly come into contact with several assessment risks referred to in the articles in the following laws and regulations:¹⁹ 1) Law No. 8 of 1995 concerning Capital Markets; 2) Law No.: 10 of 1998 concerning Amendments to Law No.: 7 of 1992 concerning Banking; 3) Law No.: 17 of 2003 concerning State Finance; 4) Law No.: 1 of 2004 concerning State Treasury; 5) Law No.: 40 of 2007 concerning Limited Liability Companies; 6) Law No.: 28 of 2009 concerning Regional Taxes and Regional Retributions (PDRB); 7) Law No.: 32 of 2009 concerning Environmental Protection and Management; 8) Law No.: 2 of 2012 concerning Land Acquisition for Development in the Public Interest; 9) Law No.: 40 of 2014 concerning Insurance; 10) Law No.: 1 of 2016 concerning Guarantee; 11) Law No.: 9. of 2016 concerning Prevention and Handling of Financial System Crisis.

The appraiser profession intersects with various laws and regulations in Indonesia, highlighting its essential role across different sectors.²⁰ In the capital market, appraisers are recognized in Law No. 8 of 1995 concerning Capital Markets and PP No. 45 of 1995 as crucial supporting professionals responsible for providing objective and fair asset valuations. They must be registered with Bapepam (now the Financial Services Authority/OJK) to ensure that their assessments protect the interests of companies, the state, and investors from detrimental

18 Kholidya Khulafaur Rosidah, Sugeng Hadi Utomo dan Hari Wahyono., Pembelajaran Ekonomi Berdasarkan Nilai-Nilai Pancasila dan Pasal 33 UUD'45 melalui Pembelajaran Proyek. *Jurnal Pendidikan: Teori, Penelitian, dan Pengembangan* 4, No. 9 (2019): 1190-1201

19 Retno Anggraeni,, Urgensi Kepastian Hukum Batas Usia Pensiun Profesi Penilai Publik dalam PMK Nomor 101/Pmk.01/2014 terhadap Penyelesaian Sengketa Kantor Jasa Penilai Publik, *Jurnal Global Ilmiah* 2, No. 3 (2024) 1-7

20 Eloise Scotford and Stephen Minas., Probing the hidden depths of climate law: Analysing national climate change legislation, *Reciel: The Review of European, Comparative & International Environmental Law*, (2018).

practices. Despite their importance, the law does not comprehensively address the qualifications, standards, or ethical codes for appraisers.

In the banking sector, Law No. 10 of 1998 concerning Banking identifies appraisers as part of the services provided to banks, emphasizing their role in asset valuation.²¹ Similarly, in state finance management, although Law No. 17 of 2003 does not explicitly mention appraisers, their expertise is crucial for asset valuation in government financial reporting. Law No. 1 of 2004 concerning State Treasury also underscores the necessity of appraisers in managing state and regional assets, including their assessment and valuation.

The Limited Liability Companies Law, Law No. 40 of 2007, requires appraisers to determine the fair value of share capital deposits when made in non-monetary forms. This regulation ensures transparency and accuracy in the valuation process. In the context of regional taxes and retributions, Law No. 28 of 2007 mandates regional governments to assess property values (NJOP), thereby necessitating skilled appraisers to handle these evaluations.

Environmental regulations, specifically Law No. 32 of 2009 concerning Environmental Protection and Management, connect appraisers to the economic valuation of natural resources for compensation and restoration purposes. Appraisers play a critical role in determining the monetary value of environmental damages and resources, which supports regulatory enforcement and compensation claims. Land acquisition for public interest is governed by Law No. 2 of 2012, where appraisers are pivotal in determining fair compensation for landowners. The law outlines the need for independent and professional land appraisers to ensure just and accountable land valuation.

In the insurance industry, Law No. 40 of 2014 specifies the role of asset appraisers in supporting insurance companies, emphasizing their registration with OJK to maintain industry standards. The appraiser profession is also integral in the guarantees sector, as stipulated in Law No. 1 of 2016, ensuring accurate asset valuations to support guarantee institutions.

Article 26 paragraph (2) of the Law on Prevention and Handling of Financial System Crises emphasizes the role of fair valuation in the management of distressed banks. It mandates the Deposit Insurance Agency (LPS) to promptly sell the Intermediary Bank or transfer its assets and liabilities to other parties as part of the crisis resolution process. This provision ensures that the resolution actions are carried out efficiently and in a manner that safeguards the financial system's stability.

The sale or transfer of assets and liabilities must be based on fair value, conducted openly and transparently. This requirement underscores the importance of accurate and impartial asset valuation, which is typically performed by professional appraisers. The involvement of

21 Bernardo Batiz-Lazo and Douglas Wood., An Historical Appraisal of Information Technology in Commercial Banking, *Electronic Markets* 12, No. 3 (2002): 192-205.

appraisers ensures that the valuation reflects the true market value of the bank's assets and liabilities, preventing potential losses to the stakeholders and maintaining public confidence in the financial system.

By mandating fair value assessments, the law seeks to protect the interests of all parties involved, including the government, investors, and the public. Transparent valuation processes are crucial in preventing undervaluation or overvaluation, which could otherwise lead to financial discrepancies and undermine the effectiveness of the crisis resolution measures

Based on this explanation, fair value is one of the very important factors in the process of selling the Intermediary Bank as part of the process of preventing and handling financial system crises. However, the Law does not state explicitly who is authorized to assess the assets and/or liabilities of Systemic Banks and who is authorized to provide an opinion on the fair value of the assets and liabilities of the Intermediary Bank.²² From the eleven Laws mentioned above, it is clear that the position of the appraiser is very important and strategic in determining the assessment of the assets or business. In this case, the role of the appraiser who is only protected by the Regulation of the Minister of Finance of the Republic of Indonesia Number: 101/PMK.01/2014 of 2014 concerning Public Appraisers is so weak in carrying out their profession when compared to the respective fields of work protected by the Law.

The profession of Appraiser has not been regulated by law. This causes the position of the appraiser to still be weak if there are problems related to the assessment, such as the interests of certain parties who feel disadvantaged by the value issued by the appraiser, the emergence of lawsuits, misuse of assessment results, and others.²³ The weak position of the appraiser from a legal perspective creates a legal loophole for the appraiser if there is an error in the work in these areas to become the 'scapegoat' for the initial error of a legal case that tends to be processed to court. This would be different if the appraiser profession was protected by a legal protection in the form of the Appraisal Law which protects the appraiser profession in carrying out its work and prevents victims from the flow of the appraisal work process in each field in the field of work protected by the law according to the description mentioned above.

From the results of research conducted by researchers until this research was written, there were approximately 315 (three hundred and fifteen) reports against appraisers reported by various law enforcement officers from the Police, Prosecutors, Lawyers Using Appraisal Reports and others to the MAPPI Appraisal Council (Indonesian Professional

22 M. Rif'an Syadali, Segaf Segaf, Parmujianto Parmujianto., Risk Management Strategy for The Problem Of Borrowing Money For Islamic Commercial Banks, *June: Management Science And Field* 13, No. 2 (2023): 1227-1236

23 Muhammad Rifqi., The Prospects of Intellectual Property Rights as a Credit Collateral: An Indonesia-Singapore Comparative Study, *Jurnal Hukum: Novelty* 14, Issue. 2 (2023):170-191

Society of Appraisers) where appraisers are housed in a single association of appraisers in Indonesia.

From all reports during the period 2012 to 2024, after further review, researchers obtained data in the field that there were 21 (twenty-one) cases where 20 (twenty) cases involved appraisers as defendants and became cases in the District Court to the Supreme Court and 1 (one) case that did not involve appraisers as defendants but only received the consequences of money laundering crimes committed by local BPR bank officials and required appraisers to deposit the proceeds of the appraisal payment to the State Treasury Office for proof of TPPU.

Of the 20 (twenty) cases that became cases against the appraiser to be tried, they were dominated by Articles contained in Law No. 31 of 1999, especially in Article 2 and Article 3, as many as 12 (twelve) cases and 1 (one) case in Article 9; Article 263 contained in the Old Criminal Code or Article 391 of the New Criminal Code as many as 3 (three) cases; Article 167 contained in the Old Criminal Code or Article 257 of the New Criminal Code, Article 242 of the Old Criminal Code or Article 291 of the New Criminal Code, Article 378 of the Old Criminal Code or Article 391 of the New Criminal Code, each as many as 1 (one) case.

The remaining 1 (one) case involving the appraiser in Article 6 and Article 7 of the Money Laundering Crime Law (TPPU) is 1 (one) case that was not tried because the appraiser only received funds from TPPU from a suspect to pay for the appraisal work at the appraiser's KJPP Office and the appraiser is required to deposit the appraisal payment funds to the Prosecutor's Account for evidence in court until it obtains permanent legal force.

The results of the trial decisions on 20 (twenty) cases at the District Court level to the Supreme Court, there were only 2 (two) cases that were acquitted by the District Court and the Supreme Court, while the rest or 18 (eighteen) cases were found guilty with imprisonment between 1 (one) to 5 (five) years. From the results of the analysis of cases involving appraisers in Indonesia during the period 2012 to 2024, on average every year there are 2 (two) cases that become cases and go to court to obtain legal certainty whether in the case of providing the value opinion the appraiser is found guilty.

The most cases dominated by land acquisition for public interest, especially in land acquisition to support the National Strategic Project (PSN), amounting to 13 (thirteen) cases charged with Article 2, Article 3 and Article 9 of Law No.: 31 of 1999 in conjunction with Law No.: 20 of 2001 concerning Corruption, the rest are criminal acts under Article 263 contained in the Old Criminal Code or Article 391 of the New Criminal Code concerning Forgery, Article 167 contained in the Old Criminal Code or Article 257 of the New Criminal Code concerning Entering Someone Else's House Without Permission, Article 242 of the Old Criminal Code or Article 291 of the New Criminal Code concerning Providing False Information and Article 378 of the Old Criminal Code or Article 391 of the New Criminal Code concerning Fraud.

The criminal acts charged with the articles in the Criminal Code are caused by the behavior of appraisers who do not carry out their profession by heeding the Indonesian Appraisal Code of Ethics that has been enforced according to KEPI and SPI Edition VII of 2018 and ultimately become victims because there is no protection of the appraiser profession law.

Meanwhile, the appraisers who are charged with Law No.: 31. Year 1999 in conjunction with Law No.: 20 of 2001 concerning Corruption Crimes, especially articles 2 and 3 as well as article 9 can be categorized as systemic. This is caused by errors in the land acquisition system for public interest, especially the lack of clarity on who should be responsible for the validation and verification system for Location Determination (PENLOK) in the field.

Where the location that is determined and released often does not match the reality of land acquisition in the National Strategic Project (PSN), so that in this case the appraiser who carries out the assessment and issues the value opinion is made the most guilty party and is detrimental to state finances because it is considered that the value opinion issued is final and binding.

In this case, the researcher would like to state the importance of the appraiser profession having its own Appraisal Law that can be used to protect the profession in supporting national development programs and categorize that civil errors committed by appraisers who already have an Appraisal Law are categorized as a civil violation. While errors that are intentionally committed by appraisers are criminal aspects that are the responsibility of the appraiser himself in his profession

2. The Legal Consequences Arising After a Civil Case Decision is Declared Unenforceable (Non-Executable)

A case submitted by the Plaintiff to the Court has the aim of resolving the problem between the Plaintiff and the Defendant.²⁴ The end of a case examination in court is marked by the reading of the judge's decision. However, the passing of a decision does not mean the problem is over. Execution comes from the word *executie* which means carrying out the judge's decision. The decision must be carried out by the party who lost the trial. If the decision is not implemented voluntarily by the losing party, then there needs to be an execution process from the Court that decided the case.²⁵

that without the Appraisal Law that governs their profession, appraisers are at high risk of coming into contact with legal issues referred to in the 11 (eleven) Laws concerning valuation risks according to the articles referred to in the legislation.

24 Marten Bunga., Mekanisme Penyelesaian Sengketa Melalui Gugatan Sederhana, *Gorontalo Law Review* 5, No. 1 (2022): 41-51

25 Mohammad Naefi and Dian Latifiani., Akibat Hukum Putusan Gugatan Sederhana Tidak Dijalankan bagi Para Pihak, *Pandecta* 16, No. 2 (2021): 335-344

This risk concerns criminal risks and civil lawsuits against the value opinion produced by the appraiser in carrying out his valuation assignment by the assignor. The greatest risk is in criminal risk because it already has jurisprudence, especially concerning violations of articles 2 and 3 as well as article 9 of Law No.: 31. Year 1999 in conjunction with Law No.: 20 Year 2001 concerning Criminal Acts of Corruption.

In Scheme 1. below, it is described how the risks of appraisers in carrying out a profession that is not protected by the Appraisal Law and must face the eleven risks contained in each of these Laws. In contrast, if the appraiser profession is protected by the Appraisal Law, then the criminal risk can be minimized through the risk of violations of ethics and administrative sanctions by the Appraisal Supervisory Board or Appraisal Supervisory Council whose job is to supervise the appraisal profession, then continued with sanctions in sequence starting from written warnings and written warnings and if violations still occur, they can be dismissed from professional membership or have their licenses removed or revoked for appraisers who are indeed difficult to guide.

The formation of the Appraisal Supervisory Board or Appraisal Supervisory Council is proposed at the Association's National Conference Meeting. Members of the Appraisal Supervisory Board or Appraisal Supervisory Council consist of elected Senior Members of the Association and delegates from the Indonesian Ministry of Finance, the Indonesian Ministry of ATR/BPN and the Indonesian Ministry of Law and Human Rights.

Members of the Appraisal Supervisory Board or Appraisal Supervisory Council must be odd in number in order to make joint decisions in the form of a quorum. Members of the Appraisal Supervisory Board or Appraisal Supervisory Council are appointed by the Association's National Conference Meeting for each term of office and may only serve 2 (two) terms. Meanwhile, for civil risks that demand compensation due to the issuance of an opinion on value from an appraiser and cause losses to third parties, a solution can be made through the Arbitration Institution as a mediator to mediate the dispute outside the court. Legal protection regarding the appraiser profession has not been regulated concretely in a specific law regarding the appraiser profession. Legal protection can only be given to public appraisers who act in good faith during the assessment. MAPPI as an association of public appraisers provides legal assistance for public appraisers involved in legal problems. The assistance in question is in the form of support as an expert witness in the trial process.²⁶

This arbitration institution must be appointed by the Central Board of the Appraisers Association for each region and is independent so that the civil process can be resolved outside the court and the final result is ratified by the local district court. In cases where the appraiser

26 Cindy A. Tampubolon (etc), Perlindungan Hukum Penilai Publik Terhadap Tuntutan Debitor Berdasarkan Undang-Undang Perbankan Dan Ketentuan Jasa Penilai, *Jurnal Kertha Semaya*, 9 No. 11 (2021): 2072-2082

profession has a legal umbrella in the Appraisal Law, legally the proposal to form an Appraiser Supervisory Board or Appraiser Supervisory Council that can conduct ethical hearings first from the investigation stage to the investigation can be carried out before an appraiser is found guilty and processed legally by law enforcement officers in Indonesia.

The violations can be categorized into 2 (two) violations, namely: 1) Unintentional and 2) Intentional. Violations that are unintentional are categorized as ethical violations that can be subject to administrative sanctions, then a written warning is given followed by a written warning and if necessary dismissed as a member of the appraiser professional association until the license is revoked if it is categorized as a serious violation of ethics and violates KEPI and SPI Edition VII of 2018.

Violations that are categorized as intentional by appraisers are categorized into: 1) deviation and 2) misappropriation. If the appraiser commits a civil deviation, he can be subject to civil sanctions in the form of a fine or paying a certain amount of money to carry out education and training on the civil provisions that he has violated. Meanwhile, if the assessor commits fraud, criminal sanctions can be processed by the authorized law enforcement officers.

The novelty of this study is the importance of legal protection for the appraiser profession through the establishment of an Appraisal Law that specifically protects and regulates the appraiser profession in Indonesia. This study reveals the legal risks, both criminal and civil, faced by appraisers in carrying out their duties without a strong legal umbrella. In addition, this study offers concrete solutions such as the establishment of an Appraisal Supervisory Board and a dispute resolution mechanism through an arbitration institution.

D. CONCLUSION

The risk of the appraiser profession in Indonesia before the enactment and ratification of the Appraiser Law, is very vulnerable to conflict with the law, especially in the field of land acquisition for public interest according to Law No.: 2 of 2012 concerning Land Acquisition for Public Interest. Errors in assessment made by appraisers are very vulnerable to being charged with Article 2, Article 3 and Article 9 of Law No.: 31 of 1999 in conjunction with Law No.: 20 of 2001 concerning Corruption which already has a jurisprudence of a decision with permanent legal force. While errors caused by the appraiser itself are the responsibility of the appraiser criminally so that they can be charged with articles in the Old Criminal Code or the New Criminal Code. Legal protection is needed for the appraisal profession through the formation of an Appraisal Law that specifically protects and regulates the appraisal profession in Indonesia. In addition, the government can also form an Appraisal Supervisory Board to resolve disputes through an arbitration institution.

BIBLIOGRAPHY

Books:

- Mary Macken-Horarik and Anne R. Isaac., *"Appraising Appraisal". Evaluation in Context*, John Benjamins Publishing Company, Amsterdam, 2014.
- Michael R. Devitt and Lawrence A. Sannicandro., *Qualified Appraisals and Qualified Appraisers: Expert Tax Valuation Witness Reports, Testimony, Procedure, Law, and Perspective*, John Wiley & Sons Inc., New Jersey, 2018.
- William L. Ventolo and Martha R. Williams., *Fundamentals of Real Estate Appraisal 8th Edition*, Deaborn Real Estate Education, Chicago, 2001.

Journals:

- Alase, G., & Akinbo, T., Employee Motivation and Job Performance: Empirical Evidence from Nigeria. *Applied Journal of Economics, Management and Social Sciences* 2, No. 2, (2021).
- Anis Mashdurohatun, Gunarto, Oktavianto Setyo Nugroho., Concept of Appraisal Institutions in Assessing The Valuation Of Intangible Assets On Small Medium Enterprises Intellectual Property As Object Of Credit Guarantee To Improve Community's Creative Economy, *JPH:Jurnal Pembaharuan Hukum* 8, No. 3, (December 2021).
- Arif Bagus Prasetyo and Suwarno Abadi., Urgensi Undang-Undang Penilai Dalam Memberikan Perlindungan dan Kepastian Hukum Bagi Penilai, *Law and Humanity* 1, No. 3, (2023) .
- Bernardo Bátiz-Lazo and Douglas Wood., An Historical Appraisal of Information Technology in Commercial Banking, *Electronic Markets* 12, No. 3, (2002).
- Cindy A. Tampubolon (etc)., Perlindungan Hukum Penilai Publik Terhadap Tuntutan Debitor Berdasarkan Undang-Undang Perbankan Dan Ketentuan Jasa Penilai, *Jurnal Kertha Semaya* 9, No. 11, (2021).
- Eloise Scotford and Stephen Minas., Probing the hidden depths of climate law: Analysing national climate change legislation, *Reciel: The Review of European, Comparative & International Environmental Law*, (2018).
- J. Wayne Moore., A history of appraisal theory and practice: Looking back from IAAO's 75th year, *Journal of Property Tax Assessment & Administration* 6, No. 3, (2009).
- Javerson Simamora, Nanda Dwi Rizkia, and Hardi Fardiansyah., The Urgency of Ratifying the Appraiser Law in the Context of Providing Legal Protection for Public Appraisers in Indonesia, *Indonesian Journal of Contemporary Multidisciplinary Research (MODERN)* 2, No. 4, (2023).

- Jon Shepherd., The Liability of Officers and Directors under the Financial Institutions Reform, Recovery and Enforcement Act of 1989, *Michigan Law Review* 90, No. 5, (1992).
- Kholidya Khulafaur Rosidah, Sugeng Hadi Utomo dan Hari Wahyono., Pembelajaran Ekonomi Berdasarkan Nilai-Nilai Pancasila dan Pasal 33 UUD'45 melalui Pembelajaran Proyek. *Jurnal Pendidikan: Teori, Penelitian, dan Pengembangan* 4, No. 9, (2019).
- M. Elpha Darnia (et. al)., Strategi Penguatan Hukum Perlindungan Konsumen Dalam Era Digital. *Perkara: Jurnal Ilmu Hukum Dan Politik* 1, No. 4, (2023).
- M. Rif'an Syadali, Segaf Segaf, Parmujiyanto Parmujiyanto., Risk Management Strategy for The Problem Of Borrowing Money For Islamic Commercial Banks, *June: Management Science And Field* 13, No. 2, (2023).
- Marten Bunga., Mekanisme Penyelesaian Sengketa Melalui Gugatan Sederhana, *Gorontalo Law Review* 5, No. 1, (2022).
- Miranadia Djati, Kashadi dan Siti Malikhatus Badriyah., Tanggung Jawab Jasa Penilai Publik Dalam Menentukan Nilai Ag.unan Terhadap Tanah Dan Bangunan Yang Dibebani Hak Tanggungan, *Diponegoro Law Journal* 5, No. 2, (2016).
- Mohammad Naefi and Dian Latifiani., Akibat Hukum Putusan Gugatan Sederhana Tidak Dijalankan bagi Para Pihak, *Pandecta* 16, No. 2, (2021).
- Muhammad Hendri Yanova., Parman Komarudin dan Hendra Hadi, Metode Penelitian Hukum: Analisis Problematika Hukum Dengan Metode Penelitian Normatif Dan Empiris, *Badamai Law Journal*, 8, No. 2, (2023).
- Muhammad Rifqi., The Prospects of Intellectual Property Rights as a Credit Collateral: An Indonesia-Singapore Comparative Study, *Jurnal Hukum: Novelty*, Vol.14, Issue 2, 2023;
- Reni Budi Setianingrum., Mekanisme Penentuan Nilai Appraisal Dan Pengikatan Hak Cipta Sebagai Objek Jaminan Fidusia, *Jurnal Media Hukum*, 23, No. 2, (2016).
- Retno Anggraeni., Urgensi Kepastian Hukum Batas Usia Pensiun Profesi Penilai Publik dalam PMK Nomor 101/Pmk.01/2014 terhadap Penyelesaian Sengketa Kantor Jasa Penilai Publik, *Jurnal Global Ilmiah* 2 No. 3, (2024).
- Robert B. Morrison., From the Chair of the Business Valuation Committee: Draft Reports, Oral Reports, Record Keeping, and USPAP. *Business Valuation Review* 34, No. 1, (2015).

Tri Eka Saputra, Rustan Rustan., Supervision of Subdistrict Heads as Temporary Deed Making Officials in the Indonesian Positive Law Perspective, *Golden Ratio of Law and Social Policy Review* 3, Issue. 1, (2023).

Trivena Gabriela Miracle Tumbel (et. al)., Perlindungan Konsumen Jual Beli Online Dalam Era Digital 4.0, *Lex Et Societatis* 8, No. 3, (2020)

Windarto (etc)., Comparison Analysis Between Appraisal Prices and Land Value Zone Price for Compesation of Manado-Bitung Toll Road, *AGRIRUD* 3, No.4, (January 2022).